IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 14499 of 2007(A)

PETITIONER:

P.NARAYANAN KUTTY, AGED 47,
S/O.LATE MADHAVA PANNIKER, MANGALAMKUNNU,
KATTUKULAM P.O., PALGHAT.

BY ADV. SMT.LEELA NARAYANAN
SMT.RINCI ANTONY.T

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, DEPARTMENT OF HEALTH AND FAMILY WELFARE, THIRUVANANTHAPURAM.

2. EMPLOYMENT OFFICER, TOWN EMPLOYMENT EXCHANGE, SHORNUR.

3. DISTRICT MEDICAL OFFICER (HEALTH), CIVIL STATION, PALAKKAD.

BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 14499/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: A TRUE COPY OF THE 1ST PAGE OF HIS SSSLC BOOK.

EXT.P2: A TRUE COPY OF THE REGISTRATIONCARD ISSUED BY THE 2ND RESPONDENT.

EXT.P3: A TRUE COPY OF the LETTER DATED 6.2.2006.

EXT.P4: A TRUE COPY OF THE LIST FORWARDED BY THE 2ND RESPONDENT DATED 1.11.2006.

EXT.P5: A TRUECOPY OF THE APPLICATION DATED 5/3/07.

EXT.P6: INTERIM ORDER IN WP(C) 15222/04 DATED 21ST MAY 2004.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 14499 OF 2007
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Dated this the 13th day of August, 2007

J U D G M E N T

The petitioner had registered his name in the Employment Exchange, Shornur, It is the complaint of the petitioner that for the post of Sweeper, on the request made by the 3rd respondent, overlooking his claims, the 2nd respondent had sponsored candidates, who were junior to him, going by the registration they had secured in the Employment Exchange. It is on that basis this writ petition has been filed seeking an order directing the second respondent to include the petitioner in the list and forward his name to the 2nd respondent. The petitioner had also directly made an application to the 3rd respondent to consider him as a candidate against the post of Part Time Sweeper.

2. Going by the rules governing appointment to the post of Part Time Sweeper, the post is to be filled up from among candidates sponsored by the Employment Exchange and these rules are not under challenge. It is seen from the counter

affidavit filed by the 2nd respondent that in terms of standing instructions in the State Employment Exchange, each candidate should be given three regular chances for Full Time, Part Time and E.D vacancies in the Public Sector with a gap of one year between two such submissions. It is stated that after giving three such submissions the name of the registrant should be kept in dormancy till such time all candidates registered in the office, having 5 years seniority have been given such submission. It is stated that the petitioner was given three Part Time Regular Sweeper chances, against vacancies notified by the 3rd respondent himself and that it is following the standing instructions of the Employment Exchange that his name has been kept dormant.

3. Counsel for the petitioner makes reference to the judgment in the case of **Excise Superintendent Malkapatnam v. K.B.N.Visweshwara Rao (1996(6) SCC 216)** and **Krishnankutty v.State of Kerala (2005 (4) KLT 448)**. These judgments recognise the obligation of the employer to simultaneously advertise post in the newspaper so that there will be an opportunity to those who have not registered in the

Employment Exchange also to compete in the selection process and also clarify that the employer is not obliged to select candidates only from those sponsored by the Employment Exchange. However,in this case Rule itself says that the candidates should be selected from among those sponsored by the Employment Exchange. Since the rule is not under challenge, the selection has to be in terms of the rule and therefore these judgments do not have any application to the facts of the case.

4. It is not a case where the petitioner's seniority has been overlooked. Petitioner has already been given three chances and it is to ensure that all are treated equally in the matter of opportunities to be considered for employment, that his name has been ordered to be kept dormant for a specified period.

I do not find anything illegal in this action of the respondents, which is uniform throughout the State. The Writ petition lacks merits and it is dismissed.

ANTONY DOMINIC, JUDGE.

Rp